



Tax Information Bulletin

STATE BOARD OF EQUALIZATION

ISSUED QUARTERLY
September 2001

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What's Inside

1. Taxpayers' Bill of Rights Hearings

You are invited to speak up about business or property tax issues that affect you. Read this article for dates, places, and times.

2. The Sales and Use Tax Rate May Increase on January 1, 2002

Heads up! We won't know for certain until November, but the rate may increase by 1/4 percent at the beginning of next year.

3. Wrap It Up!

We're not asking you to shorten your speech—just to know how to apply tax to your holiday gift-wrapping charges.

4. Layaway Sales

Do you know *when* tax is due on layaway sales?

5. Appeals Cases and Settlement Offers

The deadline for requesting a settlement has been changed.

6. New Resale Certificate for the Auto Body Repair and Painting Industry

Tired of writing in all those parts and supplies? This new resale certificate will make your work easier.

7. New and Revised Reference Material

1. Annual Taxpayers' Bill of Rights Hearings Scheduled

You are invited to attend one of three Taxpayers' Bill of Rights Hearings that will be held this fall. The hearings are held each year to give taxpayers, tax professionals, and other interested parties the opportunity to comment on the programs administered by the Board.

Although you do not need to be scheduled in advance to speak at the hearing, it would help us to prepare if you contacted us beforehand to let us know your topic. If your proposal is complex or extensive, we

encourage you to submit it in advance and then summarize it in your oral presentation.

Business Tax Hearings

Culver City

Wednesday, November 7, 2001, 1:30 p.m.
Board of Equalization District Office
5901 Green Valley Circle, Suite 207

Sacramento

Wednesday, November 28, 2001, 2:00 p.m.
Board of Equalization Headquarters
450 N Street, 1st Floor Board Room

Property Tax Hearings

Culver City

Wednesday, November 7, 2001, 1:30 p.m.
Board of Equalization District Office
5901 Green Valley Circle, Suite 207

Sacramento

Thursday, December 20, 2001, 2:00 p.m.
Board of Equalization Headquarters
450 N Street, 1st Floor Board Room

To notify us of a topic you wish to discuss or to send written material in advance, please contact the

Taxpayers' Rights Advocate, MIC:70
P.O. Box 942879
Sacramento, CA 94279-0070

Toll-free number: 1-888-324-2798
Fax: 916-323-3319

Note

We are mailing the September *Tax Information Bulletin* earlier than usual this year. We are also mailing it to businesses that do not normally receive the newsletter in September.

The reason we are mailing the *Bulletin* with the enclosed *Special Notice* is that we are running short on space in our tax return mailing envelopes. Our returns and instructions are being revised to reflect the new tax exemptions that will take effect September 1, 2001 (see *Special Notice*).

If you need extra copies, you can go to our website, www.boe.ca.gov (click on "Tax News"). Or you can call our Information Center, 1-800-400-7115.



2. Sales Tax Rate May Increase by 1/4% on January 1, 2002

On January 1, 2002, the combined state, county, and local sales and use tax rate may increase from 7.0 percent to 7.25 percent.

If the California Department of Finance announces in November that the reserves for fiscal year ending June 30, 2001, do not exceed 3 percent of the general fund revenues, there will be a one-quarter percent tax increase on January 1, 2002. We will not know whether the tax rate will increase until after November 1, 2001.

Keep Informed

There are many ways to find out whether the increase will, in fact, take effect. For example, it is likely that most California newspapers will carry the story. Many of those newspapers are also available online.

The Board will continue to provide up-to-date information on its website, as it becomes available. Our address is www.boe.ca.gov (click on "Tax News," then "Important and Special Notices"). Our Internet site will also provide answers to frequently asked questions about tax rate changes, provide a summary of new tax rates by city, and provide any new tax rate charts that may be required. You can also call our Information Center in November to find out if the tax rate is going to change.

Frequently Asked Questions

Would 7.25 percent be the maximum sales tax rate?

No. The tax rate is higher in cities and counties that have special tax districts, such as library and transportation tax districts. If you are engaged in business in a special tax district, your sales are subject to a total sales tax rate of 7.25 percent plus the applicable district tax rate.

Would there be an exemption from the tax rate increase?

In general, fixed-price contracts and fixed-price lease agreements entered into prior to January 1, 2002, are subject to the tax rates in effect at the time you and your customer

entered into the contract. To qualify as "fixed price," neither party can have the unconditional right to adjust the price for an increase in costs or terminate the contract or lease [Revenue and Taxation Code sections 7261(g) or 7262(f)]. In addition, the tax amount or rate must be specifically stated in the contract or lease agreement. If the contract or lease qualifies as a fixed-price, you should continue to report and remit the specified tax rate—that is, the rate in effect at the time you entered into the contract.

3. Wrap It Up!

With the holidays just around the corner, we want to remind everyone of how tax applies to gift-wrapping charges. Whether you are solely in the business of wrapping gifts or offer gift-wrapping as a service to your customers when they buy your products, sales tax generally applies to your entire gift-wrapping charge, including your charges for labor and materials. It does not matter whether the gift-wrapping is done by you, your employees, or by another party—the entire amount you charge remains subject to tax. This is true even if you only offer gift-wrapping services temporarily during the holidays.

What if I gift-wrap food products?

If you gift-wrap food items that you did not sell, tax applies to your total charge for the gift-wrapping. However, if you gift-wrap food products where you were the seller of those food items and the sale was exempt, your charge for gift-wrapping is not taxable unless the charge is greater than the value of the food products.

What about my purchases of wrapping supplies?

Since you are considered the seller of gift-wrapping materials such as paper, tape, ribbons and boxes, you may purchase these items for resale from your suppliers. You must pay tax, however, when purchasing items that do not become a part of the wrapped package (such as scissors and tape dispensers).



Where can I get more information?

Publication 106, *Gift-Wrapping Charges*, is a helpful two-page publication explaining how tax applies to gift-wrapping charges, including charges for wrapping combination packages of food and nonfood products. You can get a copy of Publication 106 from our Information Center or you can download a copy from our website at www.boe.ca.gov/staxpubs.htm.

4. Layaway Sales—When Should the Sale Be Reported?

You should generally report the entire layaway sale when your customer takes possession of the item sold. Since the initial layaway payment is considered a deposit and not a sale, you would not report the deposit at the time it is taken. When you complete the sale and transfer the item to the customer, you should report the total amount received from the sale including any layaway fee charged. If the sale is cancelled and the layaway fee forfeited, the fee is not taxable since no sale occurred.

Example: You sell a \$2,000 diamond ring to a customer on a layaway plan in September accepting a deposit of \$200 plus a \$50 layaway fee. The customer pays you \$200 in October and \$100 in November. When the customer returns in December, he pays the balance due (\$1,500), and takes possession of the ring. You would report the sale as taking place in December with a taxable selling price of \$2,050.

5. Deadline for Settlement Requests Changed

Taxpayers and practitioners should know that the deadline for requesting settlement of appeals cases is now *45 days before the first scheduled Board hearing*. Previous practice allowed requests 30 days before a Board hearing.

Board hearing notices advise taxpayers of the settlement program and the deadline for requesting settlement. Notices for hearings to be held on or after September 12, 2001, will include a 45-day cutoff date for settlement requests. For more information on the Board's settlement program, visit our website,

www.boe.ca.gov/boe393n.htm. Or call our Information Center and request a copy of publication 17, *Appeals Procedures*.

6. New Resale Certificate for the Auto Body Repair and Painting Industry

If you sell auto body repair and painting items, documenting your sales for resale just became easier. With the help of industry representatives, we have developed form BOE-230-A, *Resale Certificate for the Auto Body Repair and Painting Industry*.

In addition to the information on standard resale certificates, the industry-specific certificate lists common industry items that can generally be purchased for resale (such as paints, body parts, and putties). Customers can simply initial by the listed items to indicate what they are purchasing for resale. For example:

 //W Automobile parts
 Clear coats
 //W Electrical tape

Note: Buyers must initial. Check marks and "x"s are not acceptable.

The certificate also lists items that generally may not be purchased for resale because they do not become a physical part of the vehicle or part being sold (such as masking tape, cleaning solvent, and paint remover). In the unusual occurrence where your customer is purchasing those items *exclusively* for resale, the customer may list them on the "Other (specify items)" line and initial next to the line.

Although you are not required to use the new auto body certificate for your sales, it will make your record keeping easier. If you switch, be sure to retain your customers' old resale certificates for at least four years from the date of the new certificates.

Where to get the new certificates

You can get a blank form BOE-230-A, *Resale Certificate for the Auto Body Repair and Painting Industry*, from our Information Center or you can download a copy from our website, www.boe.ca.gov/staxforms.htm.



7. New or Revised Reference Material

If you would like to obtain a copy of any of the following reference material, please call the Information Center. Copies of some publications can also be obtained from our website, www.boe.ca.gov.

Sales and Use Tax Publications

Number Title

- 26 Tax Information Bulletin Index (June 2001)
- 58-A How To Inspect and Correct Your Records (April 2001)
- 61 Sales and Use Tax: Exemptions and Exclusions (May 2001)

New Translations, Miscellaneous

- 33-AC Making Sales in California (Arabic)
- 33-AN Making Sales in California (Armenian)
- 33-GN Making Sales in California (German)
- 33-PO Making Sales in California (Pilipino)
- 33-PI Making Sales in California (Punjabi)
- 33-HI Making Sales in California (Hindi)
- 42-S Resale Certificate Tips (Spanish)

New Spanish Translations, Tax Facts

- 100-S Shipping & Delivery Charges
- 101-S Sales Delivered Outside California
- 102-S Sales to the U.S. Government
- 103-S Sales for Resale
- 104-S Sales to Residents of Other Countries
- 105-S District Taxes and Delivered Sales
- 107-S Do You Need a California Seller's Permit?
- 108-S When Is Labor Taxable?
- 112-S Purchases from Out-of-State Vendors

Sales and Use Tax Regulations

- 1503 Hospitals and Other Medical Service Facilities, Institutions and Homes for the Care of Persons (effective June 1, 2001)
- 1525.2 Manufacturing Equipment (effective July 6, 2001)
- 1620 Interstate and Foreign Commerce (effective July 6, 2001)
- 1668 Resale Certificates (effective July 6, 2001)
- 1705 Relief from Liability (effective June 22, 2001)

For More Information

Information Center

1-800-400-7115

Telephone devices for the deaf

1-800-735-2929 (TDD phone)

1-800-735-2922 (voice phone)

Internet

www.boe.ca.gov

www.taxes.ca.gov

Seller's Permit Verification

Visit our website, or
call toll-free, 1-888-225-5263.

Taxpayers' Rights Advocate

Call toll-free, 1-888-324-2798.

Tax Evasion Hotline

Call toll-free, 1-888-334-3300.

Legislative Bills

www.leginfo.ca.gov
